

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
LAURA KONASHENKO,

Plaintiff,

-against-

FEDERAL EMERGENCY MANAGEMENT  
AGENCY,

Defendant.  
-----X

FEUERSTEIN, J.

**ORDER**

12-CV-3034 (SJF) (WDW)

**FILED**  
IN CLERK'S OFFICE  
U S DISTRICT COURT E D N Y

★ APR 29 2014 ★

LONG ISLAND OFFICE

On June 18, 2012, plaintiff Laura Konashenko ("plaintiff") filed a complaint against defendant Federal Emergency Management Agency ("FEMA"), seeking monetary and equitable relief based on the denial by FEMA of funds to remediate damage to her property caused by Tropical Storm Irene. [Docket Entry No. 1]. FEMA has moved for judgment on the pleadings. [Docket Entry No. 25]. Now before the Court is the Report and Recommendation of Magistrate Judge William D. Wall dated March 6, 2014 (the "Report") recommending that the Court grant defendant's motion for judgment on the pleadings and dismiss plaintiff's complaint. [Docket Entry No. 38]. No objections to the Report have been filed. For the reasons that follow, the Court adopts Magistrate Judge Wall's Report in its entirety.

I. Standard of Review

Any portion of a report and recommendation on dispositive matters to which a timely objection has been made is reviewed by the district court *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. *See Thomas*

v. *Arn*, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. *See* Fed. R. Civ. P. 72(b); *Johnson v. Goord*, 487 F. Supp. 2d 377, 379 (S.D.N.Y. 2007), *aff'd*, 305 F. App'x 815 (2d Cir. Jan. 9, 2009); *Baptichon v. Nev. State Bank*, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), *aff'd*, 125 F. App'x 374 (2d Cir. Apr. 13, 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

## II. Analysis

No objections to Magistrate Judge Wall's Report have been filed. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Wall's Report in its entirety. Plaintiff's Administrative Procedure Act claim is dismissed with prejudice. Plaintiff's Fifth Amendment due process claim is dismissed with leave to replead on or before June 1, 2014.

**SO ORDERED.**

s/ Sandra J. Feuerstein

---

Sandra J. Feuerstein  
United States District Judge

Dated: April 29, 2014  
Central Islip, New York